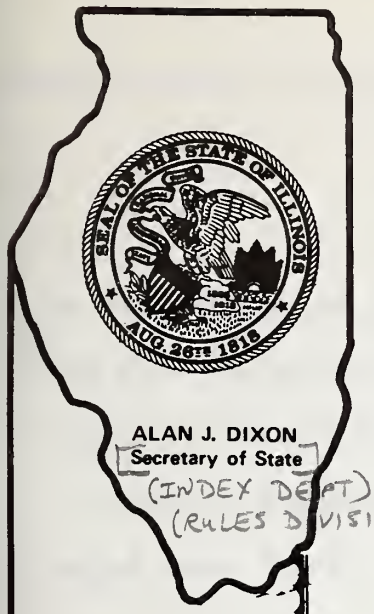


# ILLINOIS REGISTER

## Rules and Regulations of Governmental Agencies



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1978



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**Rules Division**
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STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS

In the matter of the application of )
the City of Benton for approval of )
"Airport Hazard Zoning Regulations )
for Benton Municipal Airport" lo- )
cated near Benton, Illinois )

ORDER

WHEREAS, on January 31, 1977, the City of Benton requested the Division of Aeronautics of the Department of Transportation to adopt, administer and enforce Airport Hazard Zoning Regulations pursuant to the provisions of Section 17 of an Act entitled, "Airport Zoning Act" approved July 17, 1945, as amended, to date (Chapter 15-1/2, Paragraph 48.17, Illinois Revised Statutes, 1975 edition); and

WHEREAS, the Division, pursuant to said request scheduled a public hearing for the hour of 1:00 P.M., in the meeting room of the City Hall Building, West Main Street, in Benton, Illinois, on Thursday, December 1, 1977; and

WHEREAS, notice by publication of said hearing was made in the Benton Evening News, a newspaper of general circulation in Franklin County, Illinois, on November 16, 1977, pursuant to the provisions of Section 19 of the "Airport Zoning Act"; and

WHEREAS, a public hearing was held on Thursday, December 1, 1977, and witnesses sworn and testimony taken under oath in support of the adoption of said proposed zoning regulations.

NOW, THEREFORE, THE DIVISION OF AERONAUTICS, FINDS:

(1) That an airport hazard endangers the lives and property of users of the Benton Municipal Airport and of occupants of land or to property in its vicinity and also, if of the obstruction type, in effect, reduces the size of the area available for the landing, taking off or maneuvering of aircraft, thus tending to destroy

STATE OF ILLINOIS
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DIVISION OF AERONAUTICS

In the matter of the application of )
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cated near Benton, Illinois )

ORDER

or impair the utility of Benton Municipal Airport and the public investment therein.

(2) That the zoning regulations in the form, as attached hereto are reasonable and necessary in order to effectuate the purpose of the "Airport Zoning Act."

IT IS, THEREFORE, ORDERED BY THE DIVISION OF AERONAUTICS as follows:

(1) That Airport Hazard Zoning Regulations applicable to Benton Municipal Airport, in the form as attached hereto and incorporated herein, by reference, the same as those fully set forth be adopted by the Division.

(2) That said Airport Hazard Zoning Regulations become effective after Concurrence therewith by the Illinois Commerce Commission and the filing of a certified copy thereof with the Secretary of State, State of Illinois.

David G. Campbell

David G. Campbell, ACTING DIRECTOR
DIVISION OF AERONAUTICS

DATED: December 16, 1977

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS

I hereby certify that the Order attached is a true and correct copy of the original Order entered on the 16th day of December, 1977, by David G. Campbell, Acting Director of the Division of Aeronautics, Department of Transportation of the State of Illinois, as said original Order appears in the files and records of the Department of Transportation, Division of Aeronautics of the State of Illinois.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Seal of the Department of Transportation, Division of Aeronautics of the State of Illinois, at the office of said Department, Capital Airport, Springfield, Illinois, this 16th day of December, 1977.

Shirley L. Tracy

AIRPORT HAZARD ZONING REGULATIONS

FOR

BENTON MUNICIPAL AIRPORT

ZONING PROVISIONS REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE BENTON MUNICIPAL AIRPORT BY CREATING APPROPRIATE SURFACES, AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH SURFACES, DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE BENTON MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED INTO AND MADE A PART OF THESE REGULATIONS; PROVIDING FOR ENFORCEMENT; IMPOSING PENALTIES IN THE INTEREST OF PUBLIC SAFETY AND WELFARE; AND PROVIDING FOR NOTICE OF CONSTRUCTION OR ALTERATION

These zoning regulations are adopted at the request of the City of Benton, a municipal corporation of the State of Illinois, as owner and operator of Benton Municipal Airport, pursuant to the authority conferred by an Act entitled, "An Act Relating to Airport Zoning" as approved July 17, 1945, (Illinois Revised Statutes, 1977, Chapter 15-1/2, Paragraph 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Benton Municipal Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Benton Municipal Airport and the public investment therein. Accordingly, it is declared: (1) that the creation or estab-

lishment of an airport hazard is a public nuisance and an injury to the region served by Benton Municipal Airport; (2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and (3) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY DETERMINED BY THE DEPARTMENT OF TRANSPORTATION, DIVISION OF AERONAUTICS, STATE OF ILLINOIS, that the zoning regulations for Benton Municipal Airport be adopted as follows:

## SECTION I: SHORT TITLE

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Benton Municipal Airport".

## SECTION II: DEFINITIONS

As used in these zoning regulations, unless the context

otherwise requires:

(1) AIRPORT - The Benton Municipal Airport located near Benton, in the North 1/2 of the Northwest 1/4 and the North 1/2 and the Southwest 1/4 of the Northeast 1/4 of Section 13, Township 6 South, Range 2 East of the Third Principal Meridian, Franklin County, Illinois.

(2) AIRPORT ELEVATION - The established elevation of the highest point on the useable landing area; the established airport elevation shall be 447.0' AMSL.

(3) AIRPORT HAZARD - Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

(4) AIRPORT REFERENCE POINT - The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38° 00' 30" N and Longitude 88° 56' 00" W.

(5) ALTERATION - Any construction which would result in a change in height or lateral dimensions of an existing structure.

(6) CONSTRUCTION - The erection or alteration of any structure either of a permanent or temporary

character.

(7) DEPARTMENT - The Department of Transportation, Division of Aeronautics of the State of Illinois.

(8) HEIGHT - The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

(9) PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

(10) LANDING AREA - The area of the airport used for the landing, taking off or taxiing of aircraft.

(11) NON-CONFORMING USE - Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

(12) NON-PRECISION INSTRUMENT RUNWAY - A runway having

an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

(13) PERMIT - A permit issued by the Department of Transportation, Division of Aeronautics.

(14) PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

(15) POLITICAL SUBDIVISION - Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section III hereof.

(16) RUNWAY - An area of the airport designated for the landing or taking off of aircraft and con-

sisting of either a specially prepared hard surface or turf.

(17) SLOPE RATIO - A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

(18) STATE - The State of Illinois.

(19) STRUCTURE - Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(20) GROWTH - Any object of natural growth, including trees, shrubs or foliage.

(21) VARIANCE - A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section VIII.

(22) UTILITY RUNWAY - A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

(23) VISUAL RUNWAY - A runway intended solely for the

operation of aircraft using visual approach procedures, with no straight-in, instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

(24) APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL SURFACES - These surfaces are defined in Federal Aviation Regulations, Part 77.

## SECTION III
## SURFACES & HEIGHT LIMITATIONS

The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Benton Municipal

Airport prepared by Givenrod-Lipe, Inc., of Murphysboro, Illinois, which is attached to these zoning regulations and made a part hereof, and referred to hereinafter as the zoning map. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surface.

The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

(a) HORIZONTAL SURFACE - A horizontal plane 150' above the established airport elevation of 447.0' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

(1) 5,000 feet for all runways designated as utility or visual;

(2) 10,000 feet for all other runways.

The radius of the arc specified for each end of a runway

will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

(b) CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

(c) PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

(1) 250' for utility runways having only visual approaches;

(2) 500' for utility runways having non-precision instrument approaches;

(3) For other than utility runways, the width is:

(i) 500' for visual runways having only visual approaches;

(ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

(iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

(d) APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

(1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

(i) 1,250' for that end of a utility runway with only visual approaches;

(ii) 1,500' for that end of a runway other than a utility runway with only visual approaches;

(iii) 2,000' for that end of a utility runway with a non-precision instrument approach;

(iv) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

(v) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths of a statute mile; and

(vi) 16,000' for precision instrument runways.

(2) The approach surface extends for a horizontal distance of:

(i) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

(ii) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

(iii) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

(3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

(e) TRANSITIONAL SURFACE - These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 447.0' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

(f) CIRCLING APPROACH SURFACE - This is a surface 200'

AGL or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Benton Municipal Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

(g) EXCEPTED HEIGHT LIMITATIONS - Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

## SECTION IV: USE RESTRICTIONS

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in

the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

## SECTION V
## NON-CONFORMING USES

(1) REGULATIONS NOT RETROACTIVE - Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

(2) MARKING AND LIGHTING - Notwithstanding the provisions of Section V (1), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and

lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Benton.

SECTION VI: PERMITS

(1) FUTURE USES - Except as specifically provided in Paragraphs (a), (b), and (c) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(a) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional sur-

faces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

(b) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

(c) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

(2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

## SECTION VII
## NON-CONFORMING STRUCTURES OR USES OR GROWTH ABANDONED OR DESTROYED

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

(a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

(b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use or growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof, the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

## SECTION VIII: VARIANCES

(1) General - Any person wishing to erect or increase

the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a Variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

(2) MARKING AND LIGHTING - Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

## SECTION IX
## NOTICE OF CONSTRUCTION OR ALTERATION

(1) CONSTRUCTION OR ALTERATION REQUIRING NOTICE - The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section III hereof with respect to Benton Municipal Airport:

(a) Any construction or alteration of more than 200'

in height above the ground level at its site.

(b) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(1) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.

(2) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.

(c) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the hight of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and

for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a) or (b) of this paragraph.

(d) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department or these zoning regulations.

(2) CONSTRUCTION OR ALTERATION NOT REQUIRING NOTICE - No person is required to notify the Department for any of the following construction or alterations with respect to Benton Municipal Airport:

(a) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

(b) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its

functional purpose.

(c) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

(3) FORM AND TIME OF NOTICE

(a) Each person who is required to notify the Department under Paragraph (1) above shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut Street Road, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

(b) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

(c) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration,

the 30-day requirement in Paragraph (b) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

(4) ACKNOWLEDGEMENT OF NOTICE

(a) The Department will acknowledge in writing the receipt of such notice submitted under Paragraph (1) above.

(b) The acknowledgement will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

(1) Would not exceed any standard of the Statute, rules and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

(2) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

(3) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further

aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

(4) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

(5) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

## SECTION X: ENFORCEMENT

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

## SECTION XI
## APPEAL AND JUDICIAL REVIEW

(1) APPEAL - Any person aggrieved by any decision of

the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

(2) JUDICIAL REVIEW - Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Franklin County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "An Act in Relation to Judicial Review of Decisions of Administrative Agencies" approved May 8, 1945, as amended.

## SECTION XII: PENALTIES

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punishable by a fine of not more than two hundred dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Franklin County, or Circuit Court of any any in which the airport hazard is wholly or partly located, an action to prevent and

restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

## SECTION XIII
## CONFLICTING REGULATIONS

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

## SECTION XIV
## SEVERABILITY

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are de-

clared to be severable.

SECTION XV: EFFECTIVE DATE

WHEREAS, the immediate application of the provisions of these zoning regulations are necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after their adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

Adopted by the Division of Aeronautics on the 16th day of December, 1977.

David G. Campbell

David G. Campbell, ACTING DIRECTOR
DIVISION OF AERONAUTICS

Concurrence by the Illinois Commerce Commission on the 8th day of March, 1978.

Certified copy filed with the Secretary of State on the _____ day of _____, 1978.

NOTICE BY THE ILLINOIS POLLUTION CONTROL BOARD OF

THE PROPOSED AMENDMENTS OF THE WATER

POLLUTION RULES AND REGULATIONS:

CHAPTER 3 GOVERNING AMMONIA

NITROGEN EFFLUENT LIMITATION

## NOTICE

PLEASE TAKE NOTICE THAT pursuant to Sections 5, 13 and 27 of the Illinois Environmental Protection Act, Illinois Revised Statutes, Chapter 111 1/2 §1001 et seq. (1977), the Illinois Pollution Control Board has proposed to amend the Water Pollution Regulations, Chapter 3 of the Board's Rules and Regulations pertaining to the concentration of ammonia nitrogen which may be discharged from certain sewage treatment facilities in Illinois. This proposed regulation has been docketed PCB R77-6, Amendment to Chapter 3 Water Pollution Regulations; Rule 402.1, an Exception to Rule 402 for Certain Ammonia Nitrogen Sources.

## DESCRIPTION OF THE SUBJECT MATTER AND ISSUES INVOLVED

This proposed amendment establishes interim limitations for discharges of ammonia into the waters of Illinois.

Rule 402.1(a) excepts small point-source dischargers in existence on April 1, 1977, from application of the ammonia nitrogen water quality standard of Rule 203(f) as an effluent limitation, until July 1, 1982. To qualify for the exception, the discharger must have a daily influent ammonia nitrogen loading of less than 60 pounds, and the discharger's facilities must not require upgrading to meet any other requirement of the Water Pollution Regulations.

Rule 402.1(b) establishes an interim ammonia nitrogen effluent limitation until July 1, 1982, for point-source dischargers not in existence on April 1, 1977, or for those dischargers having a daily influent ammonia nitrogen loading in excess of 60 pounds per day. These dischargers will be required to meet an effluent concentration of 1.5 mg/l of ammonia nitrogen, April through October. November through March, the effluent concentration of ammonia nitrogen from these dischargers shall not exceed 4.0 mg/l if the discharge, alone or in combination, causes or contributes to a violation of the water quality standard for ammonia nitrogen.

Rule 402.1(c) sets a March 31, 1979, compliance deadline for the interim effluent limitation requirements of Rule 402.1(b) unless the date is modified by permit condition in NPDES permit or by Board Order in an enforcement or variance proceeding.

Rule 402.1(d) establishes a termination date of July 1, 1982, for all exemptions provided under this regulation.

The original proposal was submitted to the Board on May 3, 1977. Four public hearings were held in this matter. The principle issues covered at the hearings were:

1) The need for interim ammonia nitrogen effluent limitations.

2) The impact of this proposed regulation on Illinois waters.

3) The effect of using universal biological treatment for nitrogen removal in Illinois.

4) The advantages and disadvantages of physical-chemical processes, especially breakpoint chlorination, as a back-up to biological treatment.

5) Determination of the costs and benefits of the proposed regulation and consideration of the economic impact.

The cost-benefit issue of this proposed regulation was the subject of two public economic impact hearings held pursuant to Section 1027(b) of the Environmental Protection Act (Ill.Rev.Stat. Chapter 111 1/2 (1977)).

TIME, PLACE AND MANNER IN WHICH ALL INTERESTED PERSONS MAY PRESENT THEIR VIEWS CONCERNING THE PROPOSED REGULATION GOVERNING AMMONIA NITROGEN EFFLUENT STANDARDS

All interested persons are invited to submit their views concerning the proposed action by filing written comments with the Clerk of the Board at the following address:

ILLINOIS POLLUTION CONTROL BOARD
309 West Washington Street
Room 300
Chicago, Illinois 60606

Comments may be filed either in person or by mail. A draft Opinion detailing the Board's reasoning in proposing adoption of these regulations is available at the Board's Office as are the transcripts and exhibits which comprise the record in this matter. All comments, Motions or other documents should be filed within 45 days of the date of publication of this issue of the Illinois Register. The Board's Offices are open from 8:30 a.m. to 5:00 p.m., except for weekends and State holidays.

COMPLETE TEXT OF THE PROPOSED AMENDMENTS TO POLLUTION CONTROL BOARD WATER POLLUTION REGULATIONS PERTAINING TO DISCHARGES OF AMMONIA NITROGEN:

PROPOSED AMENDMENT TO CHAPTER 3: Water Pollution Regulations; Rule 402.1 an Exception to Rule 402 for Certain Ammonia Nitrogen Sources

Amendment of Rule 402 by addition of Proposed Rule 402.1

402 Violation of Water Quality Standards

In addition to the other requirements of this Part, no effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard. When the Agency finds that a discharge that would comply

with effluent standards contained in this Chapter would cause or is causing a violation of water quality standards, the Agency shall take appropriate action under Section 31 or Section 39 of the Act to require the discharge to meet whatever effluent limits are necessary to ensure compliance with the water quality standards. When such a violation is caused by the cumulative effect of more than one source, several sources may be joined in an enforcement or variance proceeding, and measures for necessary effluent reductions will be determined on the basis of technical feasibility, economic reasonableness, and fairness to all dischargers.

402.1 Exceptions to Rule 402 (Ammonia Nitrogen)

a) Rule 402 shall not apply to that portion of Rule 203(f) pertaining to ammonia nitrogen for any effluent from a source in existence on April 1, 1977, having an untreated ammonia influent loading not exceeding 60 pounds per day and not otherwise needing upgrading to meet the requirements of this Chapter.

b) Rule 402 shall not apply to that portion of Rule 203(f) pertaining to ammonia nitrogen for any source during the months of November through March; except that during the months of November through March no source, not exempt under 402.1(a), shall discharge an effluent containing a concentration of ammonia nitrogen greater than 4.0 mg/l if the discharge, alone or in combination with other discharges, causes or contributes to a violation of that portion of Rule 203(f) pertaining to ammonia nitrogen.

c) Compliance with the provisions of Rule 402.1(b) shall be achieved by March 31, 1979, or such other date as required by NPDES permit, or as ordered by the Board under Title VIII or Title IX of the Environmental Protection Act.

d) After July 1, 1982, the exemptions provided in this Rule 402.1 shall terminate.

Illinois Department of Children and Family Services
Notice of Rulemaking
Regulation 1.18, Purchasing Rules and Regulations

NOTICE

The Illinois Department of Children and Family Services has adopted Regulation 1.18, Purchasing Rules and Regulations, pursuant to Section 6 of the Administrative Procedure Act. This Regulation was published herein on October 21, 1977 and received approval from the Honorable Theodore Puckorius, Director of the Department of Administrative Services on March 23, 1978. No comments were received and the Regulation therefore is adopted as proposed. It shall become effective 10 days from the date of filing with the Secretary of State, Index Division.

The full text is as follows:

Illinois Department of Children and Family Services
Regulation 1.18, Purchasing Rules and Regulations

1. Policy. Recognizing the necessity for economy in governmental expenditures, this Department is committed to the practices of competitive bidding and centralized purchasing.

2. Centralized Purchasing. Certain agencies have been charged with the responsibility for the central procurement of specified goods and services. Accordingly, this Department will obtain such goods and services as prescribed by law through such agencies, including the Department of Administrative Services, the Capital Development Board, Department of Personnal and such agencies as may be designated by law. Such goods and services shall include but not be limited to the following: supplies, commodities, equipment, utilities, printing, printing paper, stationery, envelopes, insurance, vehicle maintenance and repairs, telecommunications equipment and services, electronic data processing equipment and services and construction materials and services.

3. Acquisition of Services not elsewhere provided for herein. This Department will enter into service agreements in accordance with the Illinois Purchasing Act.

4. Right of Rejection. This Department reserves the right to reject any and all bids, offers or proposals received by it with respect to any invitation to bid or request for proposal issued by this Department.

5. Governing Provision. These rules are subject to the provisions of the "Illinois Purchasing Act" and all other applicable laws of the State of Illinois.

Illinois Department of Children and Family Services
Notice of Proposed Rulemaking
Regulation 8.01, Safeguarding Personal Information in Case Files

NOTICE

The Department of Children and Family Services proposes to adopt new rules and regulations entitled "Safeguarding Personal Information in Case Files," promulgated in accordance with Illinois Revised Statutes, chapter 23, Section 5035.1 (1977).

The purposes of these rules are to provide procedures and safeguards in the presentation of the confidentiality of the Department's case files and for client access to those files, and to provide for and limit access by other agencies and persons who may have a right to or legitimate need for such information as may be contained in case files.

TIME, PLACE AND MANNER
IN WHICH ALL PERSONS MAY PRESENT
THEIR VIEWS CONCERNING THE PROPOSED RULES

Interested persons wishing to present their views concerning this intended action may do so by sending written comments to the attention of:

Michael W. Becker
Illinois Department of Children and Family Services
One North Old State Capitol Plaza
Springfield, Illinois 62706

The Department will consider all written comments received by the Department within 45 days from the date of publication of this Notice.

The full text of the proposed rule is as follows:

Illinois Department of Children and Family Services Regulation 8.01,
Safeguarding Personal Information In Case Files

1. The Department, through its institutions, facilities and various offices shall maintain an appropriate record on all persons receiving services from the Department. Such records shall be of a confidential nature and shall not be made available to the general public.

2. Except as required in this regulation, or as may be required by State or Federal law, or regulation or order, no personal information obtained concerning a person served by the Department may be disclosed by the Department without the consent of that individual. In the event that the personal information concerns a minor, the consent of his parent or guardian must be obtained.

3. Except as provided in this regulation, each person served by the Department who has reached 12 years of age shall have full access to all records which contain his personal information. A parent whose parental rights have not been terminated or a guardian of a minor shall have full access to the personal information contained in the records of that minor. After a person has reached the age of 18 years the records of that individual may be disclosed only with the consent of that individual.

4. Definitions

As used in this regulation the following terms shall mean:

(a) "Minor" means any individual who has not reached his 18th birthday.

(b) "Personal Information" means any information that describes, locates or indexes anything about an individual or things done by or to such an individual or that affords a basis for inferring personal characteristics about an individual including, but not limited to, his education, financial transactions, medical history, criminal or employment records, registration or membership in an organization or activity, or admission to an institution. The term does not include educational records maintained by a Department institution which are governed by rules and regulations of the Illinois Office of Education.

(c) "Person served by the Department" means any person who receives services or applies for services from the Department through its various offices, facilities, institutions and programs. The term includes persons who are subject to licensing by the Department and persons who involuntarily receive protective services from the Department.

(d) "Disclose" and "permit access to" mean to release transfer, permit examination of or otherwise communicate information orally, in writing by electronic means or in any other manner.

5. The Department may disclose personal information to the following persons or category of persons without the consent of the individual:

(a) Law Enforcement Officers

(1) Departmental employees may release personal information to State's Attorneys, the Attorney General, municipal and sheriff's police when in the discretion of the employee, the information will benefit the interests of a child or family served by the Department; will further the statutory purpose of the Department or is necessary for the administration of programs of the Department.

(2) Departmental employees may release personal information to persons who are attempting to establish paternity or support for a dependent child or relative. Information may be released to persons in Illinois or other jurisdictions.

(3) If personal information is requested by law enforcement officials other than listed in subparagraphs (1) and (2) above, or if the information requested may be detrimental to the interests of the child or family served by the Department, the information may be released only by the Director, Regional Director, a Guardianship Administrator, or an Institution Administrator.

(b) Persons Who Have A Valid Court Order

(1) The Department shall disclose personal information when ordered to do so by a valid court order. The Department unless specifically ordered otherwise, by the court order, shall make a good faith effort to notify the person whose records are the subject of the order that the order exists and the nature of the proceeding. The Department shall notify the court or the person obtaining the court order of the confidential nature of the information and its policies regarding personal information. In addition, the Department may take any appropriate legal actions to limit or quash the court order.

(2) In the event that a subpoena has been issued by a court then the procedure in subparagraph (1) above shall apply. If a subpoena is issued by a Clerk of the Court without any judicial involvement, the Department shall notify the person who had the subpoena issued of its policy and regulations regarding personal information and shall make a good faith effort to notify the person whose information is the subject of the subpoena. The Department, unless ordered otherwise by the Court, or unless the person consents to the release of the records, shall not release the information for 14 days following the receipt of the subpoena. The Department may release the information after 14 days have passed from the receipt of the subpoena. However, the Department may take any appropriate legal actions to limit or quash the subpoena at any time following receipt of the subpoena.

(3) The Department may release personal information concerning an individual or his children which is subject to discovery under the law of the State of Illinois to a person served by the Department or his attorney when that person is engaged in litigation against the Department including litigation under the Juvenile Court Act without the need for discovery order issued by a court order.

(c) Legislators

Only the Director shall authorize the release of the contents of case records to the Illinois legislature or committees or commissions thereof. Individual legislators shall not have access to case records unless acting under authority given them by the legislature by resolution or otherwise or as a member of a committee or commission when such information is needed to advance legislation pending before such committee.

(d) Personal information may be released by the Director or designee to psychiatrists, psychologists, doctors, social workers, other employees, volunteers, homemakers, contractors, social service agencies, foster parents, child care facilities and others providing services to persons served by the Department when necessary for the proper administration of the programs of the Department or the proper delivery of services to the persons served by the Department. The Department, in disclosing personal information, shall take reasonable precautions to assure that (1) the persons receiving the information recognize the confidential nature of the information; (2) the information will not be further released except as is necessary for the proper delivery of the services; and (3) the information released will be limited to that information which is necessary to properly provide the service.

(e) Personal information may be released for the purposes and to persons other than those listed in this regulation upon the authorization of the Director when such authorization is not prohibited by state or federal law or regulation.

6. A person may be denied access to the following material which may be considered personal information:

(a) Adoption Records

The Department may deny a person his personal information in situations involving adoption when the information would allow that individual to determine the identity of his parents, siblings, or other relatives;or would allow the individual the opportunity to determine the whereabouts of a child which was voluntarily or involuntarily relinquished for adoption. The Director may release this information following an investigation if in the Director's opinion it is in the best interests of all persons involved in the adoption of the child.

Natural parents (biological parents) may indicate in writing at the time of voluntary or involuntary relinquishment for adoption, whether they would allow their natural child to have access to their name(s) and information about them at some time in the future. Such documentation should be placed in the case records of both natural parent(s) and child.

(b) Information which will identify the source of the information if the information was obtained during a protective service investigation, an adoption investigation, a licensing investigation or a study in preparation for a dispositional order under the Juvenile Court Act; and the information was given under the express promise that the identity of the source would be held in confidence, or if the information was given prior to the effective date of this regulation under the implied promise that the identity of the source would be held in confidence.

(c) An individual may be denied access to information which would cause him to determine the physical location of a child which was removed from his custody in accordance with the Juvenile Court Act. This information may be denied only if there is reasonable cause to believe that the child, foster parents or others caring for the child will be in danger if the information was known or if the individual is likely to remove the child from the jurisdiction of the court.

(d) Access may be denied to clinical social work, psychological or psychiatric reports, the disclosure of which would hinder the Department's ability to effectively work with the person or his child. Access shall be denied only if two professional (M.S.W.) social workers employed by the Department certify in writing that the denial of access is essential and in addition, after the effective date of this regulation, the person making the report so certifies. If the nature of the report requires that it not be disclosed to the individual then it shall not be disclosed to the persons other than employees of the Department and professionals with the same credentials as the person who made the report. Summaries of the report may be disclosed but only if the individual has access to the summaries.

(e) The work product of an employee of the Department may not be reviewed by the person served by the Department. Work products shall include notes concerning interviewing technique, strategies for working with the person and child. Such work product shall not be made a part of the permanent record of the individual. Summaries of this work product may be made a part of the personal information record, but only to the extent full access is allowed.

(f) Information given to the Department by the minor under assurances of confidentiality which shall be noted in the record at time of entry and information regarding those situations in which a minor can consent to his/her own medical care/treatment shall not be released to parents or others without consent of the minor.

7. The Department shall be given reasonable notice of the request for access to records and shall have sufficient time to assemble the records of the individual. The Department may require the individual to view his records at any location which will not place an undue hardship on the individual. The Department may require that a representative of the Department be present when the records are viewed to interpret the contents of the records. An individual may convey by written statement to an attorney or other person the right to view his records.

Every incidence of release of information to persons outside of the Department shall be recorded in the individual's case file, showing dates and other circumstances related to the release.

8. Records of the Department may not be removed from Departmental facilities or photocopied without permission of the Director, Guardianship Administrator, the appropriate Regional Director, or an Institution Administrator. The Department may charge for the cost of reproducing said records.

9. The release of personal information for research purposes to any source outside the agency shall only be allowed within the discretion of the Director upon express written consent. Adequate assurances of confidentiality of individually identifying information shall be given by the researcher, who shall not release any such information to anyone without the express written permission of the Director.

10. This regulation shall apply only to current and future cases of the Department.

NOTICE BY THE ILLINOIS DEPARTMENT OF INSURANCE

PROPOSED ADOPTION OF A RULE REGARDING

MEDICAL LIABILITY INSURANCE AND RATE FILINGS

NOTICE

PLEASE TAKE NOTICE that pursuant to Section 401 of the Illinois Insurance Code (Ill. Rev. Stats., Ch. 73, Para. 1013) and Section 5 of the Illinois Administrative Procedure Act (Ill. Rev. Stats., Ch. 127, Para. 1005), the Director of the Department of Insurance for the State of Illinois will formulate and issue Rule 9.29 of the Rules and Regulations of the Illinois Department of Insurance, which Rule shall implement Section 155.18 of the Illinois Insurance Code (Ill. Rev. Stats., Ch. 73, Para. 767.18).

PLEASE TAKE FURTHER NOTICE THAT pursuant to Section 6 of the Illinois Administrative Procedure Act (Ill. Rev. Stats., Ch. 127, Para. 1006), the final text of the Rule 9.29 will be adopted and issued by the Director of the Department of Insurance and filed with the Secretary of State, State of Illinois. Said Rule will become effective ten days subsequent to such filing, pursuant to Section 6 (c) of the Illinois Administrative Procedure Act (Ill. Rev. Stats., Ch. 127, Para. 1006 (c)).

DESCRIPTION OF THE SUBJECT MATTER
AND ISSUES INVOLVED

The proposed Rule 9.29 of the Rules and Regulations of the Department of Insurance, the full proposed text of which is set forth hereafter involves the following subject matter and issues:

1. Procedures to be followed with respect to filing medical liability insurance rates by individual insurance companies, groups of companies under the same ownership or management and by advisory organizations, the members of which are insurance companies;

2. Timeliness of filings and the effective dates of filed rates;

3. Information which may be required of the filer to facilitate an evaluation of the acceptability of the rate s;

4. Prohibited trade practices with respect to the compilation and development of medical liability insurance statistics, rates, underwriting rules and policy contracts.

TIME, PLACE AND MANNER IN WHICH INTERESTED PERSONS MAY PRESENT THEIR VIEWS AND COMMENTS CONCERNING THE INTENDED ACTION

Any interested persons who submit a request within fourteen days after the publication date of this notice shall be afforded a reasonable opportunity to submit data views, arguments or comments on the proposed Rule in writing to the Director. Such requests, data, views, arguments or comments should be sent to the attention of Ronald R. Boggs, Staff Attorney, Department of Insurance, State of Illinois, Springfield, Illinois 62767.

The Director will fully consider all materials meeting the above requirements before adopting, issuing and filing the final text of the proposed Rule 9.29 of the Rules and Regulations of the Department of Insurance with the Secretary of State.

COMPLETE TEXT OF PROPOSED RULE
9.29 OF THE RULES AND REGULATIONS
OF THE ILLINOIS DEPARTMENT
OF INSURANCE

ILLINOIS DEPARTMENTAL REGULATIONS

ARTICLE IX

PROVISIONS APPLICABLE TO ALL COMPANIES

Rule 9.29. (Medical Liability Insurance Rules and Rate Filings).

Section 1. Authority.

This Rule is promulgated by the Director of Insurance under Section 401 of the Illinois Insurance Code (Ill. Rev. Stats., 1975, Ch. 73, §1013) which empowers the Director "...to make reasonable rules and regulations as may be necessary for making effective..." the insurance laws of this State. This Rule implements Section 155.18 of the Illinois Insurance Code (Ill. Rev. Stats., Ch. 73, Para. 767.18).

Section 2. Purpose and Scope.

The purpose of this Rule is to implement Section 155.18 of the Illinois Insurance Code. This Rule shall apply to all "insurance on risks based upon negligence by a physician, hospital or other health care provider, referred to herein as medical liability insurance," the scope of the implemented legislation.

Section 3. Rate Filing Requirements.

A. All companies writing medical liability insurance are subject to this filing requirement.

B. The following must be filed with the Director of Insurance:

1. All Companies - All underwriting rule manuals which contain rules for applying rates or rating plans, plans for the gathering of statistics or the reporting of statistics to statistical agencies, classifications, or other such schedules used in writing medical liability insurance; and

2. All Companies - All rates applied to the writing of medical liability insurance.

3. All Advisory Organizations - All underwriting rule manuals which contain rules for applying rates or rating plans, plans for reporting statistics to statistical agencies, classifications, or other such schedules used in writing medical liability insurance.

4. All Advisory Organizations - All rates applied to the writing of medical liability insurance.

C. Filings required under B1 above can be met by:

1. A company making a direct filing on its own behalf; or

2. A company making a rule reference filing on its own behalf by utilizing its advisory organization's data relative to B1 above; or

3. A company authorizing the advisory organization, of which it is a member or subscriber, to make the filing on the company's behalf.

D. All filings required under B1 above must be accompanied by duplicate copies of a rule submission letter which includes:

1. The name of the advisory organization or company making the filing.

2. Identification of the rule with the manual or kind of insurance to which it applies.

3. Notification as to whether the filing is new or supersedes a present filing. Identification of all changes in all superseding filings, as well as identification of all superseded filings is required.

4. The effective date of use.

5. Certification by an officer of the Company or Advisory Organization and a qualified actuary that the company's rates are based on sound actuarial principles and are not inconsistent with the company's experience.

E. Companies under the same ownership or general management are required to make separate individual filings in B1 above. Company Group filings are unacceptable.

F. Filing required under B2 above can be met by:

1. A company making a direct filing on its own behalf: and

2. A company filing a Form RF-3 (See exhibit attached to this Rule) which provides information on changes in rate level based on the company's premium volume, rating system, and distribution of business with respect to the classes of medical liability insurance to which the rate revision applies. If the rate filing is not a change in rate level, no RF-3 Form is required.

G. All filings required under B2 above must be accompanied by duplicate copies of a rate submission letter which includes:

1. The name of the company making the filing.

2. Identification of the classes of medical liability insurance to which the filing applies.

3. Notification of whether the filing is new or supersedes a present filing. Identification of all changes in superseding filings, as well as identification of all superseded filings is required.

4. The effective date of use.

5. Certification by an officer of the Company and a qualified actuary that the company's rates are based on sound actuarial principles and are not inconsistent with the company's experience.

H. A company making a filing under B2 above must maintain documentary data for rate changes in its files so that it will be available for review by the Department at their request.

I. Companies under the same ownership or general management are required to make separate individual filings under B2 above. Company Group filings are unacceptable.

J. A company making a rule reference filing under C2 above must file a Form RF-1 in duplicate. (See exhibit attached to this Rule. The RF-1 Form lists the kinds of business written, the corresponding advisory organization and the rules to which the reference is being made).

K. A company making a filing under C2 and C3 above which wants to vary from advisory organization rules must file:

1. Manual size exception pages in duplicate.

2. The manual rule number, which must be the same as the rule number being replaced.

3. The effective date of use.

4. Certification by an officer of the company and a qualified actuary that the company's rates are based on sound actuarial principles and are not inconsistent with the company's experience.

L. A company making a filing under C2 or C3 above which wants an effective date different from that of the advisory organization's advisory effective date must file:

1. Manual size exception pages in duplicate establishing an automatic uniform delayed effective date applicable to all future advisory organization rule revisions, or

2. Copies of the Advisory Organization Checking Slip, in duplicate, establishing a special effective date for a particular advisory organization rule revision.

M. A company authorizing its advisory organization to file on the company's behalf under C3 above must have on file a rule authorization letter, in duplicate, including:

1. The name of their authorized advisory organization.

2. The kinds of insurance for which the filing is being made.

3. Authorization clause or language.

4. Effective date of authorization.

Section 4. Submission of Filings.

A. All filings required in Section 3 above must be received no later than 15 days prior to their stated effective date or the stated effective date of the filing to which the information or authorization relates.

B. All filings required in Section 3 above must be received by:
Illinois Department of Insurance
Property and Liability Evaluation Division
213 East Monroe Street
Springfield, Illinois 62767

Section 5. Rates.

The Director of Insurance may require the filing of statistical data and any other pertinent information necessary to determine the manner of promulgation and the acceptability or unacceptability of a filing for rules, minimum premiums, rates, forms or any combination thereof. All rates and minimum premiums shall be based upon sound actuarial principles. Rates shall not be inadequate, excessive or unfairly discriminatory.

Section 6. Prohibited Acts and Practices.

Note (1). The purpose of Article XXVI, entitled "Unfair Methods of Competition and Unfair and Deceptive Acts and Practices," according to Section 421 is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress, 15 U.S.C.A. §1011 et seq.), by prohibiting such trade practices.

Note (2). Violation of the Regulations, which are made by the Director of Insurance in effecting or implementing Article XXVI, and Article IX or any Articles are violations of the Articles themselves and subjects the violators to the procedures and penalties by these Articles.

A. Acts and practices related to activities authorized or permitted by Article IX, which are prohibited by Article XXVI as constituting unfair methods of competition or unfair and deceptive acts and practices whether committed or practices by a company, an advisory organization, or companies constituting a group, association, or organization authorized to engage in joint underwriting or joint reinsurance activities, including the following:

1. Two or more companies, unless permitted or authorized by Article IX may not act in concert with each other with respect to the compilation of insurance statistics; the preparation of insurance policies, and underwriting rules; and the furnishing of that which it compiles and prepares to insurance companies, nor with respect to the activities of making rates.

2. Two or more companies engaged in authorized joint underwriting or joint reinsurance activities unless permitted or authorized by Article IX may not act in concert with each other with respect to the activities enumerated in 1 above nor with respect to the activity of making rates.

3. All companies making rate level changes which require the filing of a Form RF-3 under Section 3 F2 are prohibited from continuing to use the new rate level if the Form RF-3 has not been submitted to the Illinois Department of Insurance 15 days prior to its effective date.

4. All companies making a rule reference filing under Section 3 C2 are prohibited from continuing to use the rule reference after ten days from its effective date filing unless or until the Form RF-1 required by Section 3 J is submitted to the Illinois Department of Insurance.

5. All companies authorizing an advisory organization to make a rule filing on its behalf under Section 3 C3 are prohibited from continuing to use the rule filings after ten days from its effective date unless or until the required authorization letter required by Section 3 M is submitted to the Illinois Department of Insurance.

6. Groups, associations, organizations or companies authorized to engage in joint underwriting and joint reinsurance activities are prohibited from establishing rules which in any way unreasonably inhibit a company from individually underwriting any risks.

7. All companies, advisory organizations, and groups, associations, or organizations or companies authorized to engage in joint underwriting activities are prohibited from practicing or sanctioning any plan or act of boycott or intimidation tending to result in the unreasonable restraint of trade or in a monopoly in the business of insurance.

8. All companies, advisory organizations, and group, association, or organization of companies authorized to engage in joint underwriting activities are prohibited from willfully withholding information from, or knowingly giving false information or misleading information to the Director or to any organization authorized by him to receive information relative to underwriting rules, rating systems or rate filings required by Article IX Rules.

Section 7. Severability Provision.

If any Section or portion of a Section of this Rule, or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the Rule or the applicability of such provision or circumstance shall not be affected thereby.

## FORM (RF-3)

SUMMARY SHEET

Change in Company's premium or rate level produced by rate revision effective .....

| (1) Coverage | (2) Annual Premium Volume (Illinois)* | (3) Percent Change (+ or −)** |
|---|---|---|
| 1. Automobile Liability | | |
| Private Passenger | ..... | ..... |
| Commercial | ..... | ..... |
| 2. Automobile Physical Damage | | |
| Private Passenger | ..... | ..... |
| Commercial | ..... | ..... |
| 3. Liability Other Than Auto | ..... | ..... |
| 4. Burglary and Theft | ..... | ..... |
| 5. Glass | ..... | ..... |
| 6. Fidelity | ..... | ..... |
| 7. Surety | ..... | ..... |
| 8. Boiler and Machinery | ..... | ..... |
| 9. Fire | ..... | ..... |
| 10. Extended Coverage | ..... | ..... |
| 11. Inland Marine | ..... | ..... |
| 12. Homeowners | ..... | ..... |
| 13. Commercial Multi-Peril | ..... | ..... |
| 14. Crop Hail | ..... | ..... |
| 15. Other ..... | ..... | ..... |
| Line of Insurance | | |

Does filing only apply to certain territory (territories) or certain classes? If so, specify: .....

.....

Brief description of filing. (If filing follows rates of an advisory organization, specify organization): .....

.....

.....

* Adjusted to reflect all prior rate changes.

** Change in Company's premium level which will result from application of new rates.

.....
Name of Company

.....
Official—Title

Illinois Department of Public Health
Illinois Health Facilities Planning Board

NOTICE

of the proposed Guidelines for CT Scanners which is being promulgated pursuant to Section 12 of the Illinois Health Facilities Planning Act (Chapters 111½, Paragraphs 1151-1167 of the Illinois Revised Statutes).

On August 19, 1977, a public meeting was held on these Guidelines and on September 2, 1977, the Illinois Health Facilities Planning Board adopted the Guidelines for CT Scanners. The Guidelines were filed as an emergency Rule on January 23, 1978 and are now being filed in order to facilitate the implementation of Standards and Criteria for Review of Applications for Permit for Technologically Innovative Equipment (Rule 9). One of the prime objectives and reasons for continuing to implement the Guidelines for CT Scanners is the containment of health care costs for equipment which is so new that its usefulness is not well enough established to develop specific plans of need. A complete text of the proposed Guidelines, follows.

People interested in commenting on these Guidelines may submit written response to Mr. Ray Passeri, Chief of the Division of Planning and Conformance, Illinois Department of Public Health, 525 West Jefferson Street, Springfield, Illinois 62761. Written comments will be accepted for 45 days subsequent to publication of the Guidelines for CT Scanners in the Illinois Register.

# GUIDELINES FOR CT SCANNERS

(Adopted by the Illinois Health Facilities Planni g Board on September 2, 1977)

## I. ASSUMPTION RE CT SCANNERS

The CT Scanner Committee has developed the following Guidelines based on the assumption that all patients who could benefit should have access to CT scanning capability, but that such scanners should be placed where there is sufficient patient load for full-time clinical use. (NOTE: In the remainder of this report the words CT Scanner are used to denote both "head" and "whole body" scanners. The two types of scanners are not differentiated in this report.)

## II. GUIDELINES FOR CT SCANNERS (ref. 9.06.1(a)

These Guidelines are presented in the format of Rule 9.06.1, which delineates the charge to the CT TIE Committee.

9.06.1 The charge to each TIE Committee shall be as follows:

(a) to recommend to the State Board whether the particular equipment referred to the Committee for study should be classified as TIE as defined in Rule 9.03.1;

(b) to recommend to the State Board the guidelines for evaluating need for initial introduction of TIE in an orderly and economic manner and for such subsequent appropriate phase-in of additional such equipment (if applicable), including:

(1') the appropriate number of acquisitions of the TIE to be approved initially; and the number of such acquisitions to be approved for each Health Service Area or combination of such areas;

A) CT Scanners, both head and whole body scanners, should be classified as TIE.

B) The appropriate number of acquisitions to be approved initially is one per each 300,000 persons in the Health Service Area;(1)

The source of population is the current Illinois Health Care Facilities Plan, Rule 3, of the Health Facilities Planning Board.

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(1) The TIE Committee will continue to evaluate other methods of assessing need, e.g., incidence of disease among the population, number of other diagnostic procedures currently being performed.

III. GUIDELINES FOR DETERMINING THE LOCATION OF ADDITIONAL SCANNERS (ref. 9.06.1(b)(2'))

9.06.1(b)(2') The appropriate medical and related services which any health care facility proposing to acquire such TIE should have available in order to make effective and appropriate use of such TIE; (NOTE: This section applies only to those areas which show a need for additional scanners as per 9.06.1(b)(1').)

A) Training and medical education. Physicians in all specialties (e.g., neurology, surgery) should be familiar with the appropriate use of CT services, and those specializing in diagnostic imaging should acquire expertise in the use and interpretation of CT Scans. Technicians must also have the opportunity to be trained in CT.(2)

B) A full range of diagnostic modalities. CT services, particularly body scanning, sometimes complement other diagnostic modalities such as ultrasound, radionuclide scanning, and conventional X-ray. CT is better placed in facilities which have the full range of these services so that inpatients need not be moved nor outpatients inconvenienced by the need to visit several facilities. Clustering complementary modalities also has the advantage that providers become conversant with each modality. The administrative burden is likely to be reduced since the patient receives services from one facility only. Since this policy would concentrate complex diagnostic services in fewer places, regional transportation systems become particularly important.(3)

C) Capability of treating many of the conditions diagnosed by CT procedures. CT scanning of both the head and body is capable of diagnosing many conditions which require highly complex treatment and modalities. Therefore, CT equipment should be located in institutions which have the facilities for treating many of the conditions likely to be diagnosed by imaging with CT.(4)

D) Services to both inpatients and outpatients. CT equipment can be used most efficiently in facilities which have an outpatient department as well as inpatient beds. Such a policy suggests that most ambulatory care facilities and physicians' offices are less well suited for CT services.(5)

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(2) Institute of Medicine, COMPUTED TOMOGRAPHIC SCANNING: A POLICY STATEMENT. Washington, D.C., National Academy of Sciences, April, 1977, p. 26.
(3) ibid.
(4) ibid., p. 27
(5) ibid.

E) Radiation physicist on staff or as a consultant. A staff or consultant physicist with expertise in the technical aspects of CT scanning is desirable to assure the quality and safety of CT equipment. Consideration should also be given to facilities which include biomedical engineers and computer experts on their staffs.(6)

F) A yearly volume (for the most recent 12 month period preceding application) of at least the following procedures:

. 1,000 radioisotope brain scans
. 50 craniotomies
. 100 cerebral angiograms
.50,000 radiographic procedures, including fluoroscopy (7)

G) The ability to provide 6 day a week, 65 hour a week, operation plus 24 hour emergency service.(8)

H) A geographic location which assures accessibility to the largest population group currently unserved.(9)

IV. REPORTING REQUIREMENT (ref. 9.06.1(b)(3'))

The applicant hospital must have the ability to report data as required.(10)

V. ADDITIONAL ACQUISITIONS (ref. 9.06.1(b)(4'))

A) Consideration will not be given to additional acquisitions of CT scanners beyond the number calculated according to population data (as specified in paragraph II above) until all CT scanners approved for a Health Service Area are in operation.

"Approved" means all CT scanners for which permits have been issued and remain valid and those allowed on the basis of population.

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(6) Institute of Medicine, COMPUTED TOMOGRAPHIC SCANNING: A POLICY STATEMENT. Washington, D.C., National Academy of Sciences, April, 1977, p. 27
(7) Interim Plan for CT Scanning in Indiana, page 5
(8) TIE Committee decision
(9) HEW Guidelines of June 6, 1974
American College of Radiology Statement on CT, Appendix 1, page 4, April 27, 1977
(10) The TIE Committee will proceed in a timely manner to develop the necessary survey tool.

B) At the time when all CT scanners approved for a Health Service Area are in operation as per V. A) above, applications for additional acquisitions of CT scanners will be considered, provided that:

1) On an annualized basis (based on a minimum of one quarter's experience) all inplace CT scanners are performing at least 2,500 scans, and

2) All inplace scanners are being operated at least 65 hours per week and are providing 24 hour emergency service.

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PROPOSED RULES



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PROPOSED RULES - Continued



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PROPOSED RULES - Continued



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ADOPTED RULES - Continued



EMERGENCY RULES



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CUMULATIVE INDEX



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